

# STATE OF CONNECTICUT

MILITARY DEPARTMENT  
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February 28, 2012

Honorable Carlo Leone, State Senator  
Honorable Jack F. Hennessy, State Representative  
Co-Chairs, Select Committee on Veterans' Affairs  
Room 509A, Capitol  
Hartford, CT 06106

**SB 113, "AAC Servicemembers Civil Relief Act Proceedings"**  
**SB 115, "AAC the Military Sexual Assault Prevention and Response Program"**  
**SB 116, "AAC State Military Accounts"**  
**HB 5171, "AAC the Disposition of Remains of Military Personnel"**  
**HB 5172, "AAC State Military Service"**  
**HB 5173, "AAC State Military Facilities"**

I write to express the Military Department's support for the above-noted bills. With the continuing reliance upon members of Connecticut's Armed Forces to conduct both federal and State operations, legislation is required to ensure the efficient use of government resources and to facilitate military service by our citizen Soldiers and Airmen. Connecticut consistently leads the way in many areas in her efforts to support our armed forces and to honor our veterans (e.g., the Military Family Relief Fund, the Military Support Program, the Military Funeral Honors Program and the Wartime Service Medal). However, many State statutes which govern the military establishment of the State have not kept pace with the development of our armed forces. As a result, many sections of the General Statutes of Connecticut, especially those contained in, Chapter 504, "Militia," require revision. I ask for your favorable consideration of the six bills raised by the Select Committee on Veterans Affairs.

**Raised Bill No. 113** provides servicemembers, who are unable to attend civil actions due to their military service, primarily out-of-state deployments, opportunity to move their civil matters forward through the presentation of evidence by electronic media. Many of our members, when deployed to remote locations, are unable to schedule leave or obtain transportation to attend hearings or proceedings in person. Servicemembers, under State and federal law (Servicemember's Civil Relief Act) may stay proceedings (see enclosure 1, "Option of Electronic Hearing"), delaying civil actions until returning to the United States or to the State when they are able to personally attend court proceedings. Although a stay is a useful mechanism to ensure due process, the delay may cause personal hardship to either or both parties to the action. Although deployed to remote locations, many servicemembers have access to electronic media, including video teleconferencing capabilities, which, if permitted to by the court, could be used to introduce evidence and move civil matters forward. State law should permit the use of modern communication devices to present evidence, subject to the approval of the presiding judge. This bill facilitates access to the courts by deployed members of our armed forces and allows them to participate in civil actions while deployed to remote locations.

**Raised Bill No. 115, "AAC the Military Sexual Assault Prevention and Response Program"** revises section 52-146k of the General Statutes to provide for the confidentiality of disclosures made by military personnel who are victims of sexual assault to military sexual assault advocates. The Department of Defense Sexual Assault Prevention and Response Program (SAPR) reinforces the Armed Service's commitment to eliminate incidents of sexual assault through a comprehensive policy that centers on awareness and prevention, training and education, victim advocacy, response, reporting, and accountability. (See enclosure 2, "DOD Directive 6495.01") For example, the policy promotes sensitive care and confidential reporting for military victims of sexual assault. For the purposes of this policy, confidentiality or confidential reporting is defined as allowing a Soldier to report a sexual assault to specified individuals. This reporting option gives the Soldier access to military medical care, counseling, and victim advocacy, without initiating the investigative process. This bill will ensure that the confidentiality of communications is honored by Connecticut for disclosures made to military victim advocates or military sexual assault prevention coordinators.

**SB 116, "AAC State Military Accounts"** establishes Military Department accounts in the General Fund for the purposes of (1) billeting members of the armed forces, (2) operating military morale, welfare and recreation (MWR) programs, (3) supporting the activities of the Governor's Guards, and (4) offsetting the cost of maintaining Governor's Guards' horses. Due to the nature of the funds used to facilitate diverse military activities, non-lapsing military accounts are necessary. The State military billets at Camp Niantic may receive federal military funds for the lodging of person affiliated with the armed forces for temporary lodging, usually paid directly from the person by use of a government travel card. The federal government requires states to account for these funds, which are received throughout the federal fiscal year and disbursed based upon the operational needs of the billeting facility (e.g., linen services, cleaning services). A non-lapsing account provides the mechanism to receive and disburse funds, based on actual use of the billets, while being subject to State auditing.

Military MWR programs, which may receive funding from federal Non-appropriated fund instrumentalities (NAFIs), could also benefit from the use of a non-lapsing account. Federally derived MWR funds may be provided to the State military, so long as the State uses the funds specifically for military MWR programs. Federal MWR funds are generated from federal military activities, such as from Army and Air Force Exchange Service profits. The funds must be used for the specific purposes of state military MWR programs, which include activities as diverse as programs related to entertainment, arts, crafts and youth services (See Army Regulation 215-1). A non-lapsing account provides a mechanism for the Military Department to receive, use and account for these funds.

The Military Department also has the potential to generate funds for facilitating the operations of the Governor's Guards. The Governor's Guards are composed of two horse guard units and two foot guard units. The units have a unique heritage and provide voluntary civic services to the State. As funding for the participation of the Governor's Guards in civic events is minimal, the Military Department seeks alternate means to facilitate their activities, including reimbursement for services, nonprofit organization fundraisers and private donations: fiscal activities which may be realized through non-lapsing accounts.

**HB 5171, "AAC the Disposition of Remains of Military Personnel"** revises section 45a-318 of the general statutes to provide for the acceptance of a Department of Defense Record of Emergency Data ("DD Form 93," enclosure 3) as the document designating a person authorized to direct disposition (PADD) of remains of a member of the Armed Forces and DOD civilians, as defined in 10 USC Section 1481(a)(1) – (8). Every member of the Armed Forces must prepare a DD Form 93, which is a form used to designate beneficiaries for certain benefits and designate the PADD in the event of the Service member's death. It is a guide for the disposition of that member's pay and allowances if captured, missing, or interred. It also shows names and addresses of the person(s) the Service member desires to be notified in case of emergency or death. This bill will ensure the method utilized by the armed forces to designate the person authorized to receive the remains of a servicemember is recognized in and by Connecticut. See enclosure 4, "Disposition Issue for Service Members Remains."

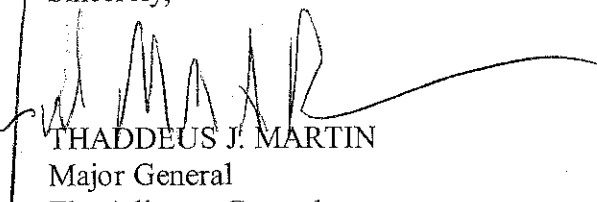
**HB 5172, "AAC State Military Service"** clarifies statutory provisions pertaining to military service, including military pay and allowances, death, disability and injury benefits, special benefits provided to State employees who perform military duty and memorials to veterans on State military property. Members of the State Armed Forces, whether in a National Guard or the Governor's Guards may perform gratuitous military services by performing duty without pay. Federal military pay statutes permit this for members of the National Guard (see enclosure 5, "32USC502"). State statutes permit the practice, but by reference to the federal statute. This bill revises the military pay statute to permit voluntary military service without reference to the federal statutes and updates the pay statute by deleting obsolete language.

In addition, the bill ensures that members of the armed forces are adequately covered by the Workers Compensation Act, applying coverage similar to that provided to members of volunteer fire companies. State military personnel performing state duty (i.e., paid for by comptroller) are already covered by Workers Compensation under 27-67 and 27-67a. This legislation clarifies the coverage, aligning it to that that a volunteer fireperson or ambulance driver, including provisions relative to coverage for members who cannot show lost wages (e.g., a college student who is a member of the state armed forces). To perfect the coverage, the bill makes state military personnel (while performing state service) employees for the purposes of chapter 568 only (Worker's Compensation Act). The coverage applies to state military personnel whether they are performing state military duty with or without pay. Finally, the bill permits the Adjutant general to authorize the emplacement of military and veteran monuments at State military facilities. This bill is required to facilitate and recognize the value of State military service.

**HB 5173, "AAC State Military Facilities"** clarifies the authority of the Adjutant General regarding maintenance of military facilities, provides a non-lapsing account for use by the Military Department for the support of facility maintenance and renovation. As the State receives federal funds for the construction, operation, maintenance, sustainment and repair of its military facilities, use of the facilities is governed by federal statute (10 USC § 18236(c)), which provides limited authority for the Military Department to lease the facilities. The receipts generated by leases must be used to support maintenance of military facilities. This bill implements federal requirements relative to facility leases and revises the statutes to reflect current practices. See (enclosure 6) the Military Department's annual "Armory Construction and Purchase Program Report" (January 1, 2012), for more information concerning funding for State military facilities.

On behalf of Connecticut's nearly 5,000 citizen soldiers and airmen, their families and our veterans, I ask the Select Committee on Veterans' Affairs to take favorable action on these bills and to work for their passage into law during this legislative session.

Sincerely,



THADDEUS J. MARTIN

Major General  
The Adjutant General

6 Enclosures:

1. Option of Electronic Hearing
2. DOD Directive 6495.01
3. DD Form 93
4. Disposition Issue for Service Members Remains
5. 32USC502
6. Armory Construction and Purchase Program Report

Copy Furnished:  
Governor's Office

## Should Service Members Have The Option Of An Electronic Hearing Before Or During Deployment?<sup>i</sup>

An alternative or complementary provision to an expedited hearing for deploying SMs is found in state statutes that grant SMs the right to participate electronically in custody hearings. These statutes provide that when SMs cannot be in court to present testimony or evidence due to their military duties, the court should obtain this information through telephone, video or other electronic means, instead of proceeding with the case without the SM's testimony or allowing a continuance. In the absence of such statutes, there is usually only limited authority for any kind of electronic testimony. [As of 2009,] three states – Mississippi, North Carolina, and South Carolina – have passed statutes to provide SMs greater ability to participate during deployment:

Mississippi: MISS. CODE ANN. § 93-5-34:

(6) Upon motion of a parent who has received military temporary duty, deployment or mobilization orders, the court shall, upon reasonable advance notice and for good cause shown, *allow the parent to present testimony and evidence by affidavit or electronic means in custody and visitation matters instituted under this section when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled teleconference, or the Internet.*

North Carolina: N.C. GEN. STAT. § 50-13.7A:

(f) Electronic Communications. -- Upon motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, upon reasonable advance notice and for good cause shown, *allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this section when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing.* The phrase "electronic means" includes communication by telephone, video teleconference, or the Internet.

South Carolina: 2009 S.C. ACTS 25:

Section 15-1-340: (A) A service member who is entitled to a stay in civil proceedings pursuant to the Service Members Civil Relief Act, 50 U.S.C.App. Section 501, et seq. *may elect to proceed while the service member is reasonably unavailable to appear in the geographical location in which the litigation is pursued and may seek relief and provide evidence through video-conferencing, internet camera, email, or another reasonable electronic means.* Testimony presented must be made under oath, in a manner viewable by all parties, and in the presence of a court reporter. In matters when a party who is physically present in the State is permitted to use affidavits or seek temporary relief, the service member may submit testimony by affidavit.

There are a range of technological options available for SMs to participate electronically. In addition to use of the telephone, SMs can sometimes obtain access to videoteleconference (VTC) resources at commercial facilities, which allow real-time audiovisual interaction with SMs as if they were in the courtroom. The use of a camera and a microphone in connection with a computer connected to the Internet makes testimony possible even from locations that do not have commercial VTC facilities. Giving SMs the option to take advantage of such equipment

allows judges to facilitate the prompt disposition of the case when it is needed, especially when expedited hearings may not be possible or even desirable.

Allowing electronic means in a hearing does raise some due process concerns, though. According to *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), "[t]he fundamental requirement of Due Process is the opportunity to be heard at a meaningful time and in a meaningful manner." A state statute allowing two-dimensional presence frames the option as an outright benefit, but it comes with some risks for the SM who takes advantage of it. In *U.S. v. Lawrence*, 248 F.3d 300, 304 (4th Cir. 2001), a judge noted that "virtual reality is rarely a substitute for actual presence." The lack of actual presence is "particularly detrimental where it is a party to the case who is participating by video conferencing, since personal impression may be a crucial factor in persuasion." *Edwards v. Logan*, 38 F.Supp.2d 463, 467 (W.D. Va. 1999). If equipment is malfunctioning or if it is not of the highest quality, it may be still more difficult for the SM to present his or her best case to the judge.

The teleconferencing situation also potentially creates a sticky situation for the SM's counsel. If the attorney is with her client, she will not be able to interact as effectively with opposing counsel or with the judge. See *Rusu v. INS*, 296 F.3d 316, 323 (2002). If, instead, the attorney is present in the courtroom, she will not be able to counsel her client privately, and the client will not be able to read her attorney's body language. This is why teleconferencing has been held to violate the Sixth Amendment guarantee of right to counsel in criminal cases.

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<sup>1</sup> Memorandum to Drafting Committee for Uniform Visitation and Custody Statute for Military Personnel and their Families, FROM: Maxine Eichner, Professor of Law, UNC School of Law, December 7, 2009, RE: Overview of Project; Issues for Conference Call, pages 6-7, retrieved February 28, 2012, [http://www.law.upenn.edu/bll/archives/ulc/vciampf/2009dec7\\_memo.pdf](http://www.law.upenn.edu/bll/archives/ulc/vciampf/2009dec7_memo.pdf)



# Department of Defense

## DIRECTIVE

NUMBER 6495.01

October 6, 2005

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USD(P&R)

SUBJECT: Sexual Assault Prevention and Response (SAPR) Program

- References:
- (a) Section 113 of title 10, United States Code
  - (b) Under Secretary of Defense for Personnel and Readiness Memorandum, "Collateral Misconduct in Sexual Assault Cases (JTF-SAPR-001)," November 12, 2004
  - (c) Under Secretary of Defense for Personnel and Readiness Memorandum, "Increased Victim Support and A Better Accounting of Sexual Assault Cases (JTF-SAPR-002)," November 22, 2004
  - (d) Under Secretary of Defense for Personnel and Readiness Memorandum, "Data Call for CY04 Sexual Assaults (JTF-SAPR-003)," November 22, 2004
  - (e) through (w), see enclosure 1

### 1. PURPOSE

1.1. Pursuant to reference (a), this Directive establishes a comprehensive DoD policy on prevention and response to sexual assaults according to the guidance in references (b) through (d), and the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) memoranda JTF-SAPR-004; JTF-SAPR-005; JTF-SAPR-006; JTF-SAPR-007; JTF-SAPR-008; the Deputy Secretary of Defense memorandum dated March 16, 2005; JTF-SAPR-009; and the USD(P&R) memoranda JTF-SAPR-010, JTF-SAPR-011, JTF-SAPR-012, JTF-SAPR-013, and JTF-SAPR-014 (references (e) through (o)).

1.2. Supersedes all regulatory and policy guidance within the Department of Defense not expressly mandated by law that are inconsistent with its provisions, or would preclude execution.

### 2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The

term "Military Services," as used herein, refers to the Army, the Navy, the Marine Corps, and the Air Force, including their National Guard and Reserve components.

2.2. The National Guard and Reserve members who report they are victims of sexual assault when performing active and inactive duty (as defined in Section 101(d)(3) of title 10, United States Code (reference (t))).

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2 and shall be uniformly applied in implementing DoD instructions and regulations issued by the Secretaries of the Military Departments.

### 4. POLICY

It is DoD policy to:

4.1. Eliminate sexual assault within the Department of Defense by providing a culture of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and well-being of all its members.

4.2. Provide standardized requirements, guidelines, protocols, and instructional materials focused on awareness and prevention at all levels as appropriate.

4.3. Provide an immediate, trained response capability for each report of sexual assault in all locations, including deployed locations, and ensure victims of sexual assault are protected, treated with dignity and respect, and receive timely access to appropriate treatment and services.

4.4. Ensure strong support of effective command awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held accountable for their actions, which includes the possibility of prosecution for committing acts of sexual assault.

4.5. Encourage complete, unrestricted reporting of sexual assaults to achieve the objectives in paragraph 4.4. of this Directive.

4.6. Provide a restricted reporting option that allows a Service member who is sexually assaulted to confidentially disclose, in accordance with DoD Directive 5400.11 (reference (q)), the details of his or her assault to specified individuals and receive medical treatment, counseling, and advocacy without automatically triggering the official investigative process. See enclosure 3.

4.7. Prohibit the enlistment or commissioning of personnel in the active duty Armed Forces, National Guard or Reserve components when the person has a qualifying conviction (see paragraph E2.1.8.) for a crime of sexual assault.



## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel Readiness (USD(P&R)) shall:

5.1.1. Oversee the Sexual Assault Prevention and Response Office (SAPRO). This organization addresses DoD sexual assault policy matters, except criminal investigative policy matters assigned to the DoD Inspector General.

5.1.2. Acquire the quarterly and annual sexual assault prevention and response data from the Military Services and assemble the annual reports involving members of the Armed Forces.

5.1.3. Develop overall policy and provide guidance for the DoD Sexual Assault Prevention and Response (SAPR) Program, except criminal investigative policy matters assigned to the DoD Inspector General.

5.1.4. Monitor compliance with this Directive.

5.1.5. Provide guidance and technical assistance to the Heads of the DoD Components in addressing matters concerning sexual assault prevention and response.

5.1.6. Develop strategic program guidance, joint planning objectives, and identify legislative changes needed to ensure the future availability of resources in support of DoD sexual assault prevention and response policies.

5.1.7. Develop metrics to measure compliance and the effectiveness of sexual assault prevention and response training and awareness objectives. Review and analyze data collected by the Military Services.

5.1.8. Maintain sexual assault data collected from the Military Services in the Defense Incident-Based Reporting System (DIBRS) (see DoD Directive 7730.47, reference (r)). This system meets uniform federal crime reporting and statutory requirements, and serves as a DoD source for internal and external response requests for statistical data on criminal offenses.

5.1.9. Establish reporting categories and monitor specific goals included in the annual sexual assault prevention and response assessments of each Military Service.

5.1.10. Collaborate with Federal and State Agencies that address sexual assault prevention and response issues and serve as liaison to their committees and advisory groups as appropriate.

5.2. The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the USD(P&R), shall recommend the Department's Sexual Assault healthcare policies, clinical practice guidelines, related procedures, and standards governing the Department of Defense healthcare programs for victims of sexual assault.

5.3. The General Counsel of the Department of Defense shall provide advice and assistance on all legal matters, to include the review and coordination on all proposed policies, regulations, directives, instructions, proposed exceptions to policy, and the review of all legislative proposals affecting mission and responsibilities of the SAPRO.

5.4. The Inspector General of the Department of Defense shall:

5.4.1. Develop and/or oversee the promulgation of criminal investigative and law enforcement policy regarding sexual assault and establish guidelines for the collection and preservation of evidence with non-identifying information on the alleged victim, under the restricted reporting process, in coordination with the ASD(HA).

5.4.2. Oversee criminal investigations of sexual assault conducted by the DoD Components and sexual assault training within the DoD law enforcement community.

5.4.3. Collaborate with the SAPRO on sexual assault matters.

5.5. The Secretaries of the Military Departments shall:

5.5.1. Ensure compliance with this Directive and establish policies and procedures to implement this program within their cognizance and consistent with the provisions of this Directive.

5.5.2. Program appropriate resources to enable the Combatant Commands to achieve compliance with the policies set forth in this Directive.

5.5.3. Provide program and obligation data to the Principal Deputy Under Secretary of Defense for Personnel and Readiness, as required.

5.5.4. Establish and codify support to Combatant Commands and Defense Agencies, either as a host activity or in a deployed environment.

5.5.5. Provide annual reports of sexual assaults involving Service members to the SAPRO for consolidation into the annual report to Congress according to reference (a).

5.6. The Chairman of the Joint Chiefs of Staff shall:

5.6.1. Assess SAPR as part of the overall force planning function of any force deployment decision. Periodically, reassess the SAPR posture of deployed forces. Review the Combatant Commanders' joint plans, deployment orders, and other relevant documents for SAPR considerations.

5.6.2. Monitor policy implementation of this Directive and implementing instructions during military operations.

5.7. The Commanders of the Combatant Commands, through the Chairman of the Joint Chiefs of Staff and the Directors of Defense Agencies, under their OSD Principal Staff Assistants who report directly to the Secretary or Deputy Secretary of Defense, shall:

5.7.1. Ensure compliance with this Directive, and establish policies and procedures to implement the SAPR Program within their areas of responsibility. When the Combatant Commanders and Defense Agencies rely on the installation host Service or a component theater commander to provide investigation, legal, medical and counseling support, these relationships should be formally established and published.

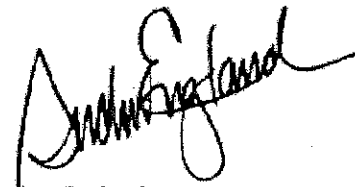
5.7.2. Ensure joint operational plans, development orders, and other relevant documents establish theater-level requirements for prevention and response to incidents of sexual assault that occur during military operations.

## 6. INFORMATION REQUIREMENTS

The sexual assault reporting requirements in Directive have been assigned Report Control Symbol (RCS) DD-P&R(A) 2205 in accordance with DoD 8910.1-M (reference (s)).

## 7. EFFECTIVE DATE

This Directive is effective immediately.



Gordon England  
Acting Deputy Secretary of Defense

Enclosures - 3

E1. References, continued

E2. Definitions

E3. Confidential Reporting Policy for Victims of Sexual Assault

## E1. ENCLOSURE 1

### REFERENCES, continued

- (e) Under Secretary of Defense for Personnel and Readiness Memorandum, "Review of Administrative Separation Actions Involving Victims of Sexual Assault (JTF-SAPR-004)," November 22, 2004
- (f) Under Secretary of Defense for Personnel and Readiness Memorandum, "Commander Checklist for Responding to Allegations of Sexual Assault (JTF-SAPR-005)," December 15, 2004
- (g) Under Secretary of Defense for Personnel and Readiness Memorandum, "Department of Defense (DoD) Definition of Sexual Assault (JTF-SAPR-006)," December 13, 2004
- (h) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for DoD Personnel on Sexual Assault Prevention & Response (JTF-SAPR-007)," December 13, 2004
- (i) Under Secretary of Defense for Personnel and Readiness Memorandum, "Response Capability for Sexual Assault (JTF-SAPR-008)," December 17, 2004
- (j) Deputy Secretary for Defense Memorandum, "Confidentiality Policy for Victims of Sexual Assault (JTF-SAPR-009)," March 16, 2005
- (k) Under Secretary of Defense for Personnel and Readiness Memorandum, "Collaboration with Civilian Authorities for Sexual Assault Victim Support (JTF-SAPR-010)," December 17, 2004
- (l) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for Sexual Assault Response Training (JTF-SAPR-011)," December 17, 2004
- (m) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for Pre-Deployment Information on Sexual Assault and Response Training (JTF-SAPR-012)," December 13, 2004
- (n) Under Secretary of Defense for Personnel and Readiness Memorandum, "Essential Training Tasks for a Sexual Assault Response Capability (JTF-SAPR-013)," April 26, 2005
- (o) Under Secretary of Defense for Personnel and Readiness Memorandum, "Sexual Assault Evidence Collection and Preservation Under Restricted Reporting (JTF-SAPR-014)," June 30, 2005
- (p) Section 504 of title 10, United States Code
- (q) DoD Directive 5400.11, "DoD Privacy Program," November 16, 2004
- (r) DoD Directive 7730.47, "Defense Incident-Based Reporting System (DIBRS)," December 1, 2003
- (s) DoD 8910.1-M, DoD Procedures for Management of Information Requirements, June 30, 1998
- (t) Section 101(d)(3) of title 10, United States Code
- (u) DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 2003
- (v) Section 1191c of title 29, United States Code
- (w) Chapter 47 of title 10, United States Code

## E2. ENCLOSURE 2

### DEFINITIONS

The following definitions apply to the DoD SAPR Program.

E2.1.1. Commander. An officer who occupies a position of command authorized by appointment or by assumption of command.

E2.1.2. Confidential Reporting. For the purposes of the policies and procedures of the SAPR Program, confidential reporting is restricted reporting that allows a Service member to report or disclose to specified officials that he or she has been the victim of a sexual assault. This reporting option gives the member access to medical care, counseling, and victim advocacy, without requiring those specific officials to automatically report the matter to law enforcement or initiate an official investigation. See enclosure E3.

E2.1.3. Covered Communication. Verbal, written, or electronic communications of personally identifiable information concerning a sexual assault victim or alleged assailant provided by the victim to the Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), or healthcare provider related to his or her sexual assault.

E2.1.4. DoD Sexual Assault Prevention and Response (SAPR) Program. A DoD program for the Military Departments and the DoD Components that establishes sexual assault prevention and response policies to be implemented worldwide. The program objective establishes an environment and military community free of sexual assault.

E2.1.5. Healthcare Provider (HCP). For the purpose of this Directive, this term applies to those individuals who are employed or assigned as healthcare professionals, or are credentialed to provide health care services, at a military medical or military dental treatment facility, or who provide such care at a deployed location or in an official capacity. This term also includes military personnel, DoD civilian employees, and DoD contractors who provide health care at an occupational health clinic for DoD civilian employees or DoD contractor personnel.

E2.1.6. Non-Identifying Personal Information. For the purpose of this Directive, this term applies to the victim and alleged assailant of a sexual assault and is that information which would disclose or have a tendency to disclose the person's identity and is personal identifying information. Personal identifying information includes the person's name or other particularly identifying descriptions (e.g. physical characteristics or identity by position, rank, or organization), or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (e.g. a female in a particular squadron or barracks when there is only one female assigned). In contrast, non-identifying personal information includes those facts and circumstances surrounding the sexual assault incident or that is about the individual that enables the identity of the individual to remain anonymous.

E2.1.7. Official Investigative Process. The formal process a commander or law enforcement organization uses to gather evidence and examine the facts and circumstances surrounding a report of sexual assault.

E2.1.8. Qualifying Conviction. A State or Federal conviction for a felony crime of sexual assault and any general or special court-martial conviction for a Uniform Code of Military Justice (reference (p)) offense which otherwise meets the elements of a crime of sexual assault, even though not classified as a felony or misdemeanor.

E2.1.9. Restricted Reporting. A process used by a Service member to report or disclose that he or she is the victim of a sexual assault to specified officials on a requested confidential basis. Under these circumstances, the victim's report and any details provided to a healthcare provider, the SARC, or a VA will not be reported to law enforcement to initiate the official investigative process unless the victim consents or an established exception is exercised under this Directive. Additional explanation and guidance is provided in enclosure 3.

E2.1.10. Senior Commander. For the purpose of this Directive, this term refers to an officer, usually in the grade of O-6 or higher, who is the commander of a military installation, base, post or comparable unit, and has been designated by the respective Military Service to oversee the SAPR Program.

E2.1.11. Service Member. An active duty or National Guard or Reserve Service member performing active or inactive service (as defined in Section 101(d)(3) of title 10, United States Code (reference (t)) or a member of the Coast Guard (when the Coast Guard is operating as a Service of the Department of the Navy).

E2.1.12. Sexual Assault. For the purpose of this Directive and SAPR awareness training and education, the term "sexual assault" is defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent. It includes rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of victim. "Consent" shall not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion, or when the victim is asleep, incapacitated, or unconscious.

E2.1.13. Sexual Assault Forensic Examination (SAFE). The medical examination of a sexual assault victim under circumstances and controlled procedures to ensure the physical examination process, and the collection, handling, analysis, testing, and safekeeping of any bodily specimens, meet the requirements necessary for use as evidence in criminal proceedings.

E2.1.14. Sexual Assault Response Coordinator (SARC). Military personnel, DoD civilian employees, or DoD contractors under the senior commander's supervision, who:

E2.1.14.1. Serves as the central point of contact at an installation or within a geographic area to oversee sexual assault awareness, prevention and response training.

E2.1.14.2. Ensures appropriate care is coordinated and provided to victims of sexual assault; and tracking the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

E2.1.15. Unrestricted Reporting. A process a Service member uses to disclose, without requesting confidentiality or restricted reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim's report and any details provided to healthcare providers, the SARC, a VA, command authorities, or other persons are reportable to law enforcement and may be used to initiate the official investigative process. Additional explanation and guidance are provided in enclosure 3.

E2.1.16. Victim. For the purpose of this Directive, a victim is a person who alleges direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault. The term encompasses all persons eligible to receive treatment in military medical treatment facilities; however the restricted reporting option is only available to those sexual assault victims who are service members as defined in paragraph E2.1.11.

E2.1.17. Victim Advocate (VA). Military personnel, DoD civilian employees, DoD contractors, or volunteers who facilitate care for victims of sexual assault under the SAPR Program, and who, on behalf of the sexual assault victim, provide liaison assistance with other organizations and agencies on victim care matters, and report directly to the SARC when performing victim advocacy duties.

### E3. ENCLOSURE 3

#### CONFIDENTIAL REPORTING PROGRAM FOR VICTIMS OF SEXUAL ASSAULT

E3.1.1. The Department of Defense recognizes the potential impact restricted reporting may have on investigations and the ability of the alleged offender's commander to hold the offender accountable. However, this policy decision represents the judgment that such risks have been carefully considered, but were outweighed by the overall interest in providing sexual assault victims this form of support.

E3.1.2. This enclosure provides the framework for the confidential reporting program and its policies. The SAPRO will coordinate specific implementation details consistent with this policy, in conjunction with the Military Departments. This SAPR Program requires extensive, in-depth training for DoD personnel and specialized training for Commanders, Senior Enlisted Leaders, VA, SARC, investigators, law enforcement, chaplains, HCP, and legal personnel.

E3.1.3. See restricted reporting as defined in enclosure 2.

E3.1.4. The Department of Defense is committed to ensuring victims of sexual assault are protected, treated with dignity and respect, and provided support, advocacy and care. DoD policy also strongly supports effective command awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held accountable for their actions, which includes appropriate criminal dispositions for sexual assault. To achieve these dual objectives, DoD policy prefers complete reporting of sexual assaults to activate both victims' services and accountability actions. However, recognizing a mandate of complete reporting may represent a barrier for victims to access services when the victim desires no command or law enforcement involvement, there is a need to provide an option for confidential restricted reporting.

E3.1.5. Assuring privacy and providing a confidential disclosure option for sexual assault victims is critical to discharging the military's commitment to providing care and support for victims of sexual assault. Sexual assault is one of the most under-reported violent crimes in our society and in the military. Although the victim's decision to report is a crucial step following a sexual assault, reporting is often precluded by the victim's desire for no one to know what happened. The Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the privacy of victims under their command. Subject matter experts agree that a system which promotes privacy and confidentiality can have a positive impact in bringing victims forward to provide information about being assaulted.



E3.1.6. Recognizing these DoD interests as a matter of DoD policy, Service members who are sexually assaulted will now have the following reporting options:

E3.1.6.1. Unrestricted Reporting. A Service member who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his or her allegation should use existing reporting channels (e.g., chain of command, law enforcement, or report the incident to the SARC). When notified of a reported sexual assault, the SARC will immediately assign a VA. Additionally, at the victim's discretion or request, the healthcare provider shall arrange a SAFE (see paragraph E2.1.13.) to be conducted, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.

E3.1.6.2. Restricted Reporting. Restricted reporting allows a sexual assault victim to confidentially disclose the details of his or her assault to specified individuals and receive medical treatment and counseling, without triggering the official investigative process. Service members who are sexually assaulted and desire restricted reporting under this policy may only report the assault to the SARC, VA or a HCP. However, consistent with current policy, they may also report the assault to a chaplain. Although a report to a chaplain is not a restricted report under this policy or the provisions of this Directive, it is a communication that may be protected under the Military Rules of Evidence (MRE) or applicable statutes and regulations. The restricted reporting process does not affect any privilege recognized under the MRE. This Directive and its policy on restricted reporting is in addition to the current protections afforded privileged communications with a chaplain, and does not alter or affect those protections.

E3.1.6.2.1. HCP will initiate the appropriate care and treatment, and report the sexual assault to the SARC instead of reporting the assault to law enforcement or the command. When notified of a reported sexual assault, the SARC will immediately assign a VA. The assigned VA will provide the victim accurate information on the reporting process, including both restricted and unrestricted reporting procedures. Additionally, at the victim's discretion or request, the HCP, if appropriately trained and/or supervised, shall conduct a SAFE, which may include the collection of evidence. If the healthcare provider is not appropriately trained to conduct a SAFE, the HCP shall help arrange for a properly-trained DoD HCP, if available. In the absence of a DoD HCP, the victim will be appropriately referred to a non-DoD HCP for the SAFE. When SAFE is performed at local civilian medical facilities, those facilities are bound by State and local laws, which may require reporting the sexual assault. The victim will acknowledge, in writing, his or her understanding of restricted reporting, the exceptions to, and limitations on, restricted reporting. This acknowledgement will also include the victim's understanding that restricted reporting may limit the ability of the Government to prosecute the assailant and an understanding of the reasons DoD policy favors unrestricted reporting.

E3.1.6.2.2. Restricted reporting is intended to give victims additional time and increased control over the release and management of their personal information, and to empower them to seek relevant information and support to make more informed decisions about participating in the criminal investigation. A victim who receives appropriate care and treatment, and is provided an opportunity to make an informed decision about a criminal investigation, is more likely to develop increased trust that his or her needs are of primary concern to the command and may eventually lead the victim to decide to pursue an official investigation. Even if the victim chooses not to pursue an official investigation, this additional reporting avenue gives the senior commander a clearer picture of the sexual violence within the command, and enhances the senior commander's ability to provide a safe environment and contributes to the well-being and mission-readiness of all of its service members

E3.1.7. In cases where a victim elects restricted reporting, the SARC, assigned VA (whether uniformed or civilian), and HCPs may not disclose covered communications to law enforcement or command authorities, either within or outside the Department of Defense, except as provided in paragraph E3.1.8. For purposes of public safety and command responsibility, the SARC shall report information concerning sexual assault incidents, without information that could reasonably lead to personal identification of the victim or the alleged assailant, to the senior commander (see paragraph E2.1.10.) within 24 hours of the sexual assault report.

E3.1.8. Exceptions to Confidentiality and Restricted Reporting and Limitations on Use. In cases where victims elect restricted reporting, the prohibition on disclosing covered communications to the persons or entities as indicated will be suspended for the reasons as follows:

E3.1.8.1. The Command officials or law enforcement when disclosure is authorized by the victim in writing.

E3.1.8.2. The Command officials or law enforcement when disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.

E3.1.8.3. The Disability Retirement Boards and officials when disclosure by a HCP is required for fitness for duty for disability retirement determinations, limited to only the information necessary to process disability retirement determination.

E3.1.8.4. The SARC, VA or HCP when disclosure is required for the supervision and/or coordination of direct victim treatment or services.

E3.1.8.5. Military or civilian courts of competent jurisdiction when disclosure is ordered by a military, Federal, or State judge, or other officials or entities as required by a Federal or State statute or applicable U.S. international agreement. The SARC, assigned VA, and healthcare providers will consult with the senior commander's servicing legal office, in the same manner as other recipients of privileged information, to determine if the exception criteria apply

and have a duty to disclose the otherwise protected information. Until those determinations are made, only non-identifying information should be disclosed.

E3.1.8.6. The SARC will evaluate the information provided and determine whether an exception applies. If needed, using non-identifying personal information (see paragraph E2.1.6.), the SARC shall do so in consultation with the staff judge advocate of the senior commander. When there is uncertainty or disagreement on whether an exception applies, the matter shall be brought to the attention of the senior commander for decision.

E3.1.8.7. The SARC, VA and healthcare provider will not disclose covered communications unless the victim authorizes the disclosure in writing or another exception established herein applies when the information about a sexual assault is disclosed to command from a source independent of restricted reporting avenues or to law enforcement from other sources, and an investigation into an allegation of sexual assault is initiated.

E3.1.8.8. The disclosure will be limited to information necessary to satisfy the purpose of the disclosure in the event a disclosure is made under the authority of subparagraphs E3.1.8.1. through E3.1.8.5. Further disclosure will not be made unless the victim authorizes the disclosure in writing.

E3.1.8.9. If a SARC, VA or healthcare provider makes an unauthorized disclosure of a covered communication, the SARC, VA and healthcare provider will not disclose additional covered communications unless the victim authorizes the disclosure in writing or another exception established herein applies. As noted below, the unauthorized disclosure of a covered communication may result in disciplinary action.

E3.1.8.10. If the report contains an allegation of sexual assault and qualifies for restricted reporting, any other offenses revealed by the victim are considered covered communications and will not be disclosed except as authorized according to paragraph E3.1.8.

E3.1.8.11. Because non-identifying personal information under the restricted reporting option is intended to provide the senior commander with general environmental information about the number and types of sexual assaults on the installation, and is to be used to provide a better understanding of incidents of sexual assault, neither the senior commander nor law enforcement officials may initiate investigations based on information provided by SARCs under paragraph E3.1.7. (information for safety and command responsibility purposes without identifiers). The senior commander, however, may use the information to enhance preventive measures, to enhance the education and training of their personnel, and to more closely scrutinize their organization's climate and culture for contributing factors, but may not use the information for investigative purposes or in a manner that is likely to discover, disclose, or reveal the identities being protected.

E3.1.9. Regardless of whether the member elects restricted or unrestricted reporting, confidentiality of medical information will be maintained in accordance with DoD 6025.18-R (reference (u)).

E3.1.10. Healthcare providers may also convey to the victim's unit commander any possible adverse duty impact related to the victim's medical condition and prognosis in accordance with reference (u) and the Health Insurance Portability and Accountability Act (reference (v)). Such circumstances however, do not otherwise warrant an exception to policy, and therefore the covered communication related to the sexual assault may not be disclosed. Improper disclosure of covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under Chapter 47 of title 10, United States Code (reference (w)) or State statute, loss of privileges, or other adverse personnel or administrative actions.

E3.1.11. When information about a sexual assault comes to any commander's attention from a source independent of the restricted reporting avenues, that commander shall report the matter to law enforcement and an official investigation may be initiated based on that independently-acquired information. Additionally, when the SARC or assigned VA learns that a law enforcement official has initiated an official investigation that is based upon independently-acquired information, and after consulting with the law enforcement official responsible for the investigation, the SARC or assigned VA will notify the victim, as appropriate. A victim will also be notified that disclosure of his or her sexual assault to persons outside the protective sphere of the specified persons covered by this restricted reporting policy may result in the initiation of the official investigative process regarding the allegations that the victim disclosed.

E3.1.12. Restricted reporting does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any actionable conduct by the offender or the victim. Covered communications that have been disclosed may be used in disciplinary proceedings against the offender or the victim, even if such communications were improperly disclosed.

# **RECORD OF EMERGENCY DATA**

## **PRIVACY ACT STATEMENT**

**AUTHORITY:** 5 USC 552, 10 USC 655, 1475 to 1480 and 2771, 38 USC 1970, 44 USC 3101, and EO 9397 (SSN).

**PRINCIPAL PURPOSES:** This form is used by military personnel and Department of Defense civilian and contractor personnel, collectively referred to as civilians, when applicable. For military personnel, it is used to designate beneficiaries for certain benefits in the event of the Service member's death. It is also a guide for disposition of that member's pay and allowances if captured, missing or interned. It also shows names and addresses of the person(s) the Service member desires to be notified in case of emergency or death. For civilian personnel, it is used to expedite the notification process in the event of an emergency and/or the death of the member. The purpose of soliciting the SSN is to provide positive identification. All items may not be applicable.

**ROUTINE USES:** None.

**DISCLOSURE:** Voluntary; however, failure to provide accurate personal identifier information and other solicited information will delay notification and the processing of benefits to designated beneficiaries if applicable.

### **INSTRUCTIONS TO SERVICE MEMBER**

This extremely important form is to be used by you to show the names and addresses of your spouse, children, parents, and any other person(s) you would like notified if you become a casualty (other family members or fiancé), and, to designate beneficiaries for certain benefits if you die. IT IS YOUR RESPONSIBILITY to keep your Record of Emergency Data up to date to show your desires as to beneficiaries to receive certain death payments, and to show changes in your family or other personnel listed, for example, as a result of marriage, civil court action, death, or address change.

### **INSTRUCTIONS TO CIVILIANS**

This extremely important form is to be used by you to show the names and addresses of your spouse, children, parents, and any other person(s) you would like notified if you become a casualty. Not every item on this form is applicable to you. **This form is used by the Department of Defense (DoD) to expedite notification in the case of emergencies or death.** It does not have a legal impact on other forms you may have completed with the DoD or your employer.

**IMPORTANT:** This form is divided into two sections: Section 1 - Emergency Contact Information and Section 2 - Benefits Related Information. READ THE INSTRUCTIONS ON PAGES 3 AND 4 BEFORE COMPLETING THIS FORM.

## **SECTION 1 - EMERGENCY CONTACT INFORMATION**

<b>1. NAME</b> (Last, First, Middle Initial)		<b>2. SSN</b>	
<b>3a. SERVICE/CIVILIAN CATEGORY</b> <input type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> MARINE CORPS <input type="checkbox"/> AIR FORCE <input type="checkbox"/> DoD <input type="checkbox"/> CIVILIAN <input type="checkbox"/> CONTRACTOR			<b>b. REPORTING UNIT CODE/DUTY STATION</b>
<b>4a. SPOUSE NAME</b> (If applicable) (Last, First, Middle Initial)  <input type="checkbox"/> SINGLE <input type="checkbox"/> DIVORCED <input type="checkbox"/> WIDOWED		<b>b. ADDRESS</b> (Include ZIP Code) AND TELEPHONE NUMBER	
<b>5. CHILDREN</b>	<b>b. RELATIONSHIP</b>	<b>c. DATE OF BIRTH</b> (YYYYMMDD)	<b>d. ADDRESS</b> (Include ZIP Code) AND TELEPHONE NUMBER
<b>a. NAME</b> (Last, First, Middle Initial)			
<b>6a. FATHER NAME</b> (Last, First, Middle Initial)	<b>b. ADDRESS</b> (Include ZIP Code) AND TELEPHONE NUMBER		
<b>7a. MOTHER NAME</b> (Last, First, Middle Initial)	<b>b. ADDRESS</b> (Include ZIP Code) AND TELEPHONE NUMBER		
<b>8a. DO NOT NOTIFY DUE TO ILL HEALTH</b>	<b>b. NOTIFY INSTEAD</b>		
<b>9a. DESIGNATED PERSON(S)</b> (Military only)	<b>b. ADDRESS</b> (Include ZIP Code) AND TELEPHONE NUMBER		
<b>10. CONTRACTING AGENCY AND TELEPHONE NUMBER</b> (Contractors only)			

SECTION 2 - BENEFITS RELATED INFORMATION			
11a. BENEFICIARY(IES) FOR DEATH GRATUITY (Military only)	b. RELATIONSHIP	c. ADDRESS (Include ZIP Code) AND TELEPHONE NUMBER	d. PERCENTAGE
12a. BENEFICIARY(IES) FOR UNPAID PAY/ALLOWANCES (Military only) NAME AND RELATIONSHIP		b. ADDRESS (Include ZIP Code) AND TELEPHONE NUMBER	c. PERCENTAGE
13a. PERSON AUTHORIZED TO DIRECT DISPOSITION (PADD) (Military only) NAME AND RELATIONSHIP		b. ADDRESS (Include ZIP Code) AND TELEPHONE NUMBER	
14. CONTINUATION/REMARKS			
15. SIGNATURE OF SERVICE MEMBER/CIVILIAN (Include rank, rate, or grade if applicable)		16. SIGNATURE OF WITNESS (Include rank, rate, or grade as appropriate)	17. DATE SIGNED (YYYYMMDD)

## INSTRUCTIONS FOR PREPARING DD FORM 93

(See appropriate Service Directives for supplemental instructions for completion of this form at other than MEPS)

All entries explained below are for electronic or typewriter completion, except those specifically noted. If a computer or typewriter is not available, print in black or blue-black ink insuring a legible image on all copies. Include "Jr.," "Sr.," "III" or similar designation for each name, if applicable. When an address is entered, include the appropriate ZIP Code. If the member cannot provide a current address, indicate "unknown" in the appropriate item. Addresses shown as P.O. Box Numbers or RFD numbers should indicate in Item 14, "Continuations/Remarks", a street address or general guidance to reach the place of residence. In addition, the notation "See Item 14" should be included in the item pertaining to the particular next of kin or when the space for a particular item is insufficient. If the address for the person in the item has been shown in a preceding item, it is unnecessary to repeat the address; however, the name must be entered. Those items that are considered not applicable to civilians will be left blank.

ITEM 1. Enter full last name, first name, and middle initial.

ITEM 2. Enter social security number (SSN).

ITEM 3a. Service. **Military:** Mark X in appropriate block. **Civilian:** Mark two blocks as appropriate. Examples: an Army civilian would mark Army and either Civilian or Contractor; a DoD civilian, without affiliation to one of the Military Services, would mark DoD and then either Civilian or Contractor as appropriate.

ITEM 3b. Reporting Unit Code/Duty Station. See Service Directives.

ITEM 4a. Spouse Name. Enter last name (if different from Item 1), first name and middle initial on the line provided. If single, divorced, or widowed, mark appropriate block.

ITEM 4b. Address and Telephone Number. Enter the "actual" address and telephone number, not the mailing address. Include civilian title or military rank and service if applicable. If one of the blocks in 4a is marked, leave blank.

ITEM 5a-d. Children. Enter last name (only if different from Item 1) first name and middle initial, relationship, and date of birth of all children. If none, so state. Include illegitimate children if acknowledged by member or paternity/maternity has been judicially decreed. Relationship examples: son, daughter, stepson or daughter, adopted son or daughter or ward. Date of birth example: 19950704. For children not living with the member's current spouse, include address and name and relationship of person with whom residing in item 5d.

ITEM 6a. Father Name. Last name, first name and middle initial.

ITEM 6b. Address and Telephone Number of Father. If unknown or deceased, so state. Include civilian title or military rank and service if applicable. If other than natural father is listed, indicate relationship.

ITEM 7a. Mother Name. Last name, first name and middle initial.

ITEM 7b. Address and Telephone Number of Mother. If unknown or deceased, so state. Include civilian title or military rank and service if applicable. If other than natural mother is listed, indicate relationship.

ITEM 8. Persons Not to be Notified Due to Ill Health.

a. List relationship, e.g., "Mother," of person(s) listed in Items 4, 5, 6, or 7 who are not to be notified of a casualty due to ill health. If more than one child, specify, e.g., "daughter Susan." Otherwise, enter "None".

b. List relationship, e.g., "Father" or name and address of person(s) to be notified in lieu of person(s) listed in item 8a. If "None" is entered in Item 8a, leave blank.

ITEM 9a. This item will be used to record the name of the person or persons, if any, other than the member's primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if the member is placed in a missing status. Reference 10 USC, Section 655. **NOT APPLICABLE to civilians.**

ITEM 9b. Address and telephone number of Designated Person(s). **NOT APPLICABLE to civilians.**

ITEM 10. Contracting Agency and Telephone Number (**Contractors only**). **NOT APPLICABLE to military personnel.** Civilian contractors will provide the name of their contracting agency and its telephone number. Example: XYZ Electric, (703) 555-5689. The telephone number should be to the company or corporation's personnel or human resources office.

ITEM 11a. Beneficiary(ies) for Death Gratuity (**Military only**). Enter first name(s), middle initial, and last name(s) of the person(s) to receive death gratuity pay. A member may designate one or more persons to receive all or a portion of the death gratuity pay. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the person may receive. If the member does not wish to designate a beneficiary for the payment of death gratuity, enter "None," or if the full amount is not designated, the payment or balance will be paid as follows:

- (1) To the surviving spouse of the person, if any;
- (2) To any surviving children of the person and the descendants of any deceased children by representation;
- (3) To the surviving parents or the survivor of them;
- (4) To the duly appointed executor or administrator of the estate of the person;
- (5) If there are none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

The member should make specific designations, as it expedites payment.

## INSTRUCTIONS FOR PREPARING DD FORM 93

(Continued)

ITEM 11a. (Continued) Seek legal advice if naming a minor child as a beneficiary. If a member has a spouse but designates a person other than the spouse to receive all or a portion of the death gratuity pay, the Service concerned is required to provide notice of the designation to the spouse. **NOT APPLICABLE to civilians.**

Item 11b. Relationship. **NOT APPLICABLE to civilians.**

ITEM 11c. Enter beneficiary(ies) full mailing address and telephone number to include the ZIP Code. **NOT APPLICABLE to civilians.**

ITEM 11d. Show the percentage to be paid to each person. Enter 10%, 20%, 30%, up to 100% as appropriate. The sum shares must equal 100 percent. If no percent is indicated and more than one person is named, the money is paid in equal shares to the persons named. **NOT APPLICABLE to civilians.**

ITEM 12a. Beneficiary(ies) for Unpaid Pay/Allowance (**Military only**). Enter first name(s), middle initial, last name(s) and relationship of person to receive unpaid pay and allowances at the time of death. The member may indicate anyone to receive this payment. If the member designated two or more beneficiaries, state the percentage to be paid each in item 10c. If the member does not wish to designate a beneficiary, enter "By Law." The member is urged to designate a beneficiary for unpaid pay and allowances as payment will be made to the person in order of precedence by law (10 USC 2771) in the absence of a designation. Seek legal advice if naming a minor child as beneficiary. **NOT APPLICABLE to civilians.**

ITEM 12b. Enter beneficiary(ies) full mailing address and telephone number to include the ZIP Code. **NOT APPLICABLE to civilians.**

ITEM 12c. If the member designated two or more beneficiaries, state the percentage to be paid each in this section. The sum shares must equal 100 percent. **NOT APPLICABLE to civilians.**

ITEM 13a. Enter the name and relationship of the Person Authorized to Direct Disposition (PADD) of your remains should you become a casualty. Only the following persons may be named as a PADD: surviving spouse, blood relative of legal age, or adoptive relatives of the decedent. If neither of these three can be found, a person standing in loco parentis may be named. **NOT APPLICABLE to civilians.**

ITEM 13b. Address and telephone number of PADD. **NOT APPLICABLE to civilians.**

ITEM 14. Continuations/Remarks. Use this item for remarks or continuation of other items, if necessary. Prefix entry with the number of the item being continued; for example, 5/John J./son/ 19851220/321 Pecan Drive, Schertz TX 78151. Also use this item to list name, address, and relationship of other persons the member desires to be notified. Other dependents may also be listed. This block offers the greatest amount of flexibility for the member to record other important information not otherwise requested but considered extremely useful in the casualty notification and assistance process. Besides continuing information from other blocks on this form, the member may desire to include additional information such as: NOK language barriers, location or existence of a Will, additional private insurance information, other family member contact numbers, etc. If additional space is required, attach a supplemental sheet of standard bond paper with the information.

ITEM 15. Signature of Service Member/Civilian. Check and verify all entries and sign all copies in ink as follows: First name, middle initial, last name. Include rank, rate, or grade if applicable. May be electronically signed (see DoD Instruction 1300.18 for guidelines).

ITEM 16. Signature of Witness. Have a witness (disinterested person) sign all copies in ink as follows: First name, middle initial, last name. Include rank, rate, or grade as appropriate. A witness signature is not required for electronic versions of the DD Form 93 (see DoD Instruction 1300.18).

ITEM 17. Date the member or civilian signs the form. This item is an ink entry and must be completed on all copies.



## **DISPOSITION ISSUE FOR SERVICE MEMBER REMAINS**

**SUBJECT:** State law on Disposition of Remains does not currently provide for the accommodation of the expressed, written wishes of service members through execution of the federally prescribed "Record of Emergency Data"

**DISCUSSION:** At present, Connecticut General Statutes, Title 45a, Chap 802b (Decedent's Estates), Sec 45a-318, states in part,

“(a) Any person eighteen years of age or older, and of sound mind, may execute in advance of such person's death a written document, subscribed by such person and attested by two witnesses, either: ... (2) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such person's body upon the death of such person. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under subdivision (1) or (2) of this subsection....

(d) A document executed by a person for the purposes of subsection (a) of this section shall revoke any document previously executed by such person for the purposes of said subsection or any prior cremation authorization or other authorization for the disposition of remains executed by such person and may be in substantially the following form, but the use of such form shall not preclude the use of any other form: ...”

When active duty and activated guard/reserve members complete the federally mandated DD Form 93 in accordance with Section 564 of Public Law 109-163, effective January 2006, they designate a person authorized to direct disposition of their remains in event of death. The document is witnessed (but not notarized) by an authorized military official, and it is updated every year on the service member's birthday and prior to each deployment.

In addition to Section 45a-318(d) requiring specific language not included on the DD Form 93, this section of the Connecticut law presents a problem relative to a service member's official designation, using the federal law, in that the signature of the decedent must be witnessed by two people..

As stated above, service members designate a person responsible for disposition in accordance with federal law. Because some state laws do not currently recognize the federal form as an acceptable one for service members, there have been several instances of civil actions between family members over the ultimate disposition of a fallen service member's remains.

### **POSSIBLE BEST PRACTICE OUTCOME:**

To eliminate potential conflict with federal law in relation to service members, states are considering amending state law to recognize the DD Form 93 ("Record of Emergency Data") as an acceptable written instrument for service members, notwithstanding other parts of state law regarding disposition.

### 32USC 502. REQUIRED DRILLS AND FIELD EXERCISES

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall—

- (1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and
- (2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 90 consecutive days.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless—

- (1) the number of members present equals or exceeds the minimum number prescribed by the President;
- (2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and

(3) the training is of the type prescribed by the Secretary concerned.

(e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.

(f)

(1) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may—

(A) without his consent, but with the pay and allowances provided by law; or

(B) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a).

(2) The training or duty ordered to be performed under paragraph (1) may include the following:

(A) Support of operations or missions undertaken by the member's unit at the request of the President or Secretary of Defense.

(B) Support of training operations and training missions assigned in whole or in part to the National Guard by the Secretary concerned, but only to the extent that such training missions and training operations—

(i) are performed in the United States or the Commonwealth of Puerto Rico or possessions of the United States; and

(ii) are only to instruct active duty military, foreign military (under the same authorities and restrictions applicable to active duty troops), Department of Defense contractor personnel, or Department of Defense civilian employees.

(3) Duty without pay shall be considered for all purposes as if it were duty with pay.